

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SUVERINO FRITH, SAVANNAH KINZER,
CEDRICK JUAREZ, FAITH WALSH,
MACKENZIE SHANAHAN, COREY SAMUEL,
JENNIFER OSAYANDE, BRITNEY IFEBOHR,
KANAYA RYLAND, KIRBY BURT, LEAVER
MICHEL, ABDULAI BARRY, LINDSAY
VUONG, SAMANTHA BERIMBAU, SUEPRIYA
ADHI, ALICE TISME, CAMILLE TUCKER-
TOLBERT, CHARLES THOMPSON, ANA
BELÉN DEL RIO-RAMIREZ, CASSIDY
VISCO, LYLAH STYLES, KAYLA GREENE,
SHARIE ROBINSON, KELLY RIGLER, HALEY
EVANS, JUSTINE O'NEILL, SARITA WILSON,
and YURIN LONDON, individually and on
behalf of all others similarly situated,

Case No. 20-cv-11358-ADB

Plaintiffs,

v.

WHOLE FOODS MARKET, INC. and
AMAZON.COM, INC.,

Defendants

**NOTICE OF SUPPLEMENTAL AUTHORITY
REGARDING EEOC RIGHT-TO-SUE LETTERS**

In its pending motion to dismiss (Dkt. 31), Whole Foods has argued that Plaintiffs cannot proceed with this case in court because they have not received Right to Sue letters from the EEOC. In addition to the other arguments Plaintiffs raised in their opposition to the motion (Dkt. 42), Plaintiffs now inform the Court that Plaintiff Haley Evans has received a Right to Sue letter from the EEOC.¹ It is attached here as Exhibit

¹ Haley Evans was added as a named plaintiff to the Amended Complaint (Dkt. 11, ¶ 31) filed on July 31, 2020, but she was inadvertently left off of the case caption. Plaintiffs have added her now to the case caption above and request that this revised caption be used going forward.

A. Because Plaintiff Evans filed her EEOC charge as a class charge (see Exhibit B), she has now exhausted her administrative remedies² and may proceed with this case in court on behalf of a class.³

In addition, the EEOC has informed Plaintiffs' counsel that Right to Sue letters were issued for Plaintiffs Suverino Frith, Savannah Kinzer, and Abdulai Barry, Whole Foods employees who have worked in Cambridge, Massachusetts (at the River Street and Fresh Pond locations). See Exhibit C. These plaintiffs likewise filed EEOC charges on a class basis. See Exhibit D.

Plaintiffs have therefore met the administrative exhaustion requirement and Whole Foods' request for dismissal on this ground should be rejected.

Dated: September 10, 2020

Respectfully submitted,

SUVERINO FRITH, SAVANNAH KINZER,
CEDRICK JUAREZ, FAITH WALSH,
MACKENZIE SHANAHAN, COREY SAMUEL,
JENNIFER OSAYANDE, BRITNEY IFEBOHR,
KANAYA RYLAND, KIRBY BURT, LEAVER
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² Plaintiffs may proceed on a Title VII in court where the EEOC right to-sue letter is issued during the pendency of proceedings. See *Martínez- Rivera v. Puerto Rico*, 812 F.3d 69, 74 (1st Cir. 2016); see also *Anjelino v. New York Times Co.*, 200 F.3d 73, 96 (3d Cir.1999) ("the failure to obtain a right-to-sue letter... is curable at any point during the pendency of the action.").

³ See *Albermarle Paper Co. v. Moody*, 422 U.S. 405 (1975); *Greene v. City of Boston*, 204 F. Supp. 2d 239, 241 (D. Mass. 2002) (other employees who have not exhausted administrative requirements may proceed with a class action in court by "piggybacking" on a timely-filed charge that "gives the EEOC and the employer adequate notice of allegations of class-wide discrimination.").

ADHI, ALICE TISME, CAMILLE TUCKER-TOLBERT, CHARLES THOMPSON, ANA BELÉN DEL RIO-RAMIREZ, CASSIDY VISCO, LYLAH STYLES, KAYLA GREENE, SHARIE ROBINSON, KELLY RIGLER, JUSTINE O'NEILL, SARITA WILSON, and YURIN LONDON, individually and on behalf of all others similarly situated,

By their attorneys,

/s/ Shannon Liss-Riordan

Shannon Liss-Riordan, BBO #640716
Anastasia Doherty, BBO #705288
LICHTEN & LISS-RIORDAN, P.C.
729 Boylston Street, Suite 2000
Boston, MA 02116
(617) 994-5800
Email: sliss@llrlaw.com, adoherty@llrlaw.com

CERTIFICATE OF SERVICE

I, Shannon Liss-Riordan, hereby certify that a copy of this document, as filed on September 10, 2020, has been electronically served on counsel for Defendants Whole Foods Market, Inc. and Amazon.com, Inc., via electronic the ECF electronic filing system.

/s/ Shannon Liss-Riordan

Shannon Liss-Riordan, Esq.